

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

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3 **ENFORCEMENT PRIORITY SYSTEM**
4 **DISMISSAL REPORT**

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6 **MUR: 7559**

Respondents: Kootenai County Republican
Central Committee (the "Committee"),
Melanie Vander Feer

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10 **Complaint Receipt Date: December 21, 2018**

11 **Response Dates: February 14, 2019, February 15, 2019, February 28, 2019**

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13 **EPS Rating:**

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15 **Alleged Statutory/**

52 U.S.C. § 30120(a), (c)(2);

16 **Regulatory Violations:**

11 C.F.R. § 110.11(a), (c)(2)(ii)

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18 The Complaint alleges that an unknown person mailed a flyer lacking a proper disclaimer
19 shortly before the 2018 general election that advocated for the election of congressional candidate
20 Russ Fulcher.¹ The flyer states that it is from "your Conservative Republican Precinct
21 Committeeman," which the Complainant alleges is false.² The Committee acknowledges the
22 omission of the "Paid for by" disclaimer on the flyer, and attributes the error to a misunderstanding
23 with the printer.³ The owner of Upscale Mail, the printer, responded that Upscale Mail produced
24 and mailed the flyer for a total cost of \$83.81.⁴

25 Based on its experience and expertise, the Commission has established an Enforcement
26 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
27 assess whether particular matters warrant further administrative enforcement proceedings. These
28 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity

¹ Compl. at 2, 4 (December 21, 2018). Russ Fulcher was a 2018 candidate in Idaho's 1st Congressional District. The mailer also endorsed state and local candidates. *Id.* at 5.

² *Id.* at 2, 4.

³ Committee Resp. at 1 (February 15, 2009).

⁴ Upscale Mail Resp. at 1 (February 14, 2019).

1 and the amount in violation; (2) the apparent impact the alleged violation may have had on the
2 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in
3 potential violations and other developments in the law. This matter is rated as low priority for
4 Commission action after application of these pre-established criteria. Given that low rating and the
5 low dollar amount spent to copy and mail the flyer, we recommend that the Commission dismiss the
6 Complaint consistent with the Commission's prosecutorial discretion to determine the proper
7 ordering of its priorities and use of agency resources.⁵ We also recommend that the Commission
8 close the file and send the appropriate letters.

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10 Lisa J. Stevenson
11 Acting General Counsel
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14 Charles Kitcher
15 Acting Associate General Counsel
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18 8.5.19
19 Date

20 BY: Stephen Gura
21 Stephen Gura
22 Deputy Associate General Counsel

23 Jeff Jordan /by KP
24 Jeff S. Jordan
25 Assistant General Counsel
26

27
28 Donald E. Campbell
29 Donald E. Campbell
30 Attorney

⁵ Heckler v. Chaney, 470 U.S. 821, 831-32 (1985).